REMARKS

STATUS OF THE CLAIMS

Claims 1-45 were pending in this application. Claims 1, 9, 12, and 13 have been amended. New claims 46 and 47 have been added. Following entry of the amendments claims 1-47 will be pending and at issue.

SUPPORT FOR AMENDMENTS TO THE CLAIMS

Claims 1, 12, and 13 have been amended to include the term "that has at least 70% identity to" to more clearly define Applicants' invention. Support for this term can be found throughout the specification as filed, e.g., page 12, lines 8-16:

> The terms "GPCR-B3 or T1R1," "GPCR-B4 or T1R2," and "T1R3" or a nucleic acid encoding "GPCR-B3 or T1R1," "GPCR-B4 or T1R2," and "T1R3" refer to nucleic acid and polypeptide polymorphic variants, alleles, mutants, and interspecies homologs that are members of the T1R family of G protein coupled receptors and: (1) have an amino acid sequence that has greater than about 60% amino acid sequence identity, 65%, 70%, 75%, 80%, 85%, 90%, preferably 91%, 92%, 93%, 94%, 95%, 96%, 97%, 98% or 99% or greater amino acid sequence identity, preferably over a region of over a region of at least about 25, 50, 100, 200, 500, 1000, or more amino acids, to an amino acid sequence encoded by SEQ ID NO:1, 2, 3, 7, 8, 9, 15, 18, 20, 23, 25, 27, or 31....

As another example, support can be found at page 32, lines 29-34 to page 33, lines 1-2:

> Preferably, the T1R3-comprising taste receptor will have a sequence as encoded by a sequence provided herein or a conservatively modified variant thereof. Alternatively, the T1R3-comprising taste receptor of the assay will be derived from a eukaryote and include an amino acid subsequence having substantial amino acid sequence identity to the sequences provided herein or is encoded by a nucleotide sequence that hybridizes under stringent conditions (moderate or high) to a nucleotide sequence as described herein. Generally, the amino acid sequence identity will be at least 60%, preferably at least 65%, 70%, 75%, 80%, 85%, or 90%, most preferably at least 95%.

Support for the amendments to claim 9 and for the new claim 47 is found throughout the specification as filed, e.g., page 4, lines 17-22, page 5, lines 7-14, page 24, lines 14-26. New claim 46 finds support in original claim 2. The amendments to the claims therefore add no new matter and entry is respectfully requested.

ELECTION/RESTRICTION REQUIREMENT

In the Office Action dated July 15, 2005, the Examiner required election of one of fifteen inventions, e.g., one of an isolated taste receptor (claims 1-19), a recombinant cell expressing the receptor (claims 20-21), and an analytical method (claims 22-45), wherein each of these three groups is further divided into SEQ ID NOS: 15, 20, 23, 25 and 31. Thus, the Examiner restricted to one sequence the amino acid sequences listed in the original claims 1-19, in claims 20-21 and in claims 22-45. Pursuant to this restriction requirement, Applicants provisionally elect Group I (claims 1 to 19, in so far as they relate to an isolated taste receptor comprising a polypeptide of SEQ ID NO:15) with traverse.

To advance and simplify prosecution, Applicants have amended claims 1, 12, and 13 herein, deleting the recitation of the SEQ ID NOS (sequences of specific amino acids). Amended claims 1, 12, and 13 each now recite a single sequence (SEQ ID NO:15), which sequence Applicants provisionally elect as the first species for examination. Applicants have amended claims 1, 12, and 13 to create generic linking claims in the interest of creating a species election. As between all of the sequences of SEQ ID NOS: 15, 20, 23, 25, and 31, each sequence has at least 70% identity to SEQ ID NO: 15, as recited in amended claims 1, 12, and 13. Thus, amended claims 1, 12, and 13 are generic linking claims that encompass the species of SEQ ID NOS: 15, 20, 23, 25, and 31. Applicants submit that the generic claim structure encouraged by these amendments permits the Examiner to limit initial examination to a reasonable number of species encompassed by each of the claims. See 37 C.F.R. § 1.146. This practice strikes an appropriate balance between the concerns of the Patent Office regarding administrative considerations and unduly burdensome examination, and the clear constitutional and statutory rights of an inventor to claim an invention as it is contemplated, provided the dictates of 35 U.S.C. § 112 are complied with. See MPEP at 803.02. Unlike the restriction requirement provided in the Office Action of July 15, 2005, a species election does not preclude the Applicants from pursuing what is substantially the original form of the claims 1-19 in subsequent prosecution, nor does it force an applicant to file multiple divisional applications for the isolated taste receptor, which would be incapable of capturing the intended scope of the invention. If the

Examiner agrees to consider claims 1, 12, and 13 to be generic linking claims, Applicants provisionally elect the species of SEQ ID NO: 15 for consideration during the prosecution of this application.

Applicants also respectfully submit that the search regarding the amino acid sequences does not constitute an undue burden, further reducing the propriety of restriction (*see* MPEP § 800). The Examiner stated in the Office Action of July 15, 2005 that the "proteins of SEQ ID NOS: 15, 20, 23, 25, and 31 are five physically and structurally distinct compounds each of which can be made and used without the others...and a search of the art for any two or more of these proteins in a single application would constitute an undue search burden." Office Action, p. 4. However, a search regarding the proteins of SEQ ID NOS: 15, 20, 23, and 25 has already been conducted within the United States Patent and Trademark Office regarding a related case entitled "Mammalian Sweet Taste Receptors," bearing U.S. Application Number 09/927,315, filed on August 10, 2001. In this case, no restriction requirement was issued, though the independent claims refer to SEQ ID NOS: 15, 20, 23, and 25. Since a thorough search has already been conducted regarding four of the five sequences and these search results are readily available to the Examiner, the Applicants submit that the Examiner would not be faced with an undue burden of conducting a search of five sequences.

Therefore, in the event that the Examiner does not consider claims 1, 12, and 13 to be generic claims, the Applicants request that the Examiner reconsider the restriction requirement as drawn to Groups I-V that divide claims 1-19 into five groups (each including one of SEQ ID NOS: 15, 20, 23, 25, and 31). The Applicants respectfully request that the Examiner withdraw this restriction as drawn to Groups I-V, and instead consider claims 1-19 to be one Group for the purposes of this restriction requirement. In this event that the Examiner makes this modification to create one unified Group for claims 1-19, Applicants provisionally elect this Group.

CONCLUSION

Withdrawal of the pending rejections and reconsideration of the claims are respectfully requested, and a notice of allowance is earnestly solicited. If the Examiner has any questions concerning this Response, the Examiner is invited to telephone Applicant's representative at (650) 335-7185.

Respectfully submitted,
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